IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 21598 of 2006

DATED: 10.11.2006

Between:

The Managing Director,

APSRTC, Musheerabad,

Hyderabad and another petitioners

And

Sri G.Balaswamy & another Respondents

THE HON'BLE SRI JUSTICE N.V.RAMANA

WRIT PETITION NO. 21598 OF 2006

ORAL ORDER :

This writ petition is filed by APSRTC, questioning the orders dated 2.6.2006 in M.P. No. 15 of 2005 passed by the Labour Court-III, Hyderabad partly allowing the petition and directing the respondents-petitioners herein to pay an amount of Rs.1,06,620/- to the first respondent herein.

The workman-first respondent herein was removed by order dated 29.8.1995. Questioning the said removal order, he raised an Industrial Dispute in I.D. No.181 of 2000. The Labour Court on consideration of the matter passed an award dated 13.5.2003 setting aside the removal order and reinstating the petitioner with continuity of service with deferment of two annual grade increments with cumulative effect, but without backwages with cumulative effect. The said award was published on 16.6.2003 and the same became final. Since, the award of the Labour Court was

not implemented, despite oral requests, the petitioner issued a legal notice to implement the award and to reinstate him into service. Thereafter, vide proceedings dated 15.7.2005 the first respondent was directed to report to duty at Gadwal depot on reinstatement. In pursuance of the same, the first respondent reported to duty on 18.8.2005. Since there is delay of more than two years in implementing the award of the labour Court, the first respondent filed a petition under section 33 (C) (2) of the Industrial Disputes Act to determine the amount payable by the petitioner-APSRTC in terms of the Award in I.D. No. 181 of 2000. The labour Court, following the decision in **Y.G.Krishna Vs.Addl. Industrial Tribunal cum Addl Labour Court, Hyderabad** held that delay in filing the petition cannot be a ground to avoid payment of wages which the respondents are legally bound to pay and the petitioner (workman) has right to recover the wages in terms of the Award and partly allowed the petition granting the wages for the delayed period of two years and 24 days amounting to Rs.1,06,620/-. Questioning the said orders, the present writ petition is filed.

Learned Standing Counsel for petitioner corporation mainly contended that the workman/first respondent has not approached the petitioner corporation after publication of the award and has not taken any steps for execution of the Award and without taking into consideration the said facts, the Labour Court erred in partly allowing the petition and granting wages for the delayed period.

On the other hand, learned counsel for workman/first respondent submitted that the first respondent has made several requests to the authorities to implement the award and also got issued a legal notice and there after the petitioner corporation has implemented the award.
In support of his contention that the respondent-workman is entitled to full wages in the absence of any reason shown by the petitioner management as to why they did not implement the award, placed reliance on a judgment of the Apex Court in **APSRTC Vs. B.Vikram Reddy**.

Heard the learned Standing Counsel for petitioner and learned counsel for first respondent.

The Apex Court in APSRTC case (cited supra 2) held as follows;

> "…….However, we notice that in spite of the award passed on 23.4.1997 the appellant corporation did not implement the award and the respondent was not reinstated in service. Learned counsel for the appellant contended that the respondent never approached the corporation nor did he take any steps for execution of the award and therefore the appellant did not reinstate the respondent. We do not consider this as a justifiable stand on the part of the appellant corporation. The award was not challenged by the corporation. In the absence of any material on record to show as to why the corporation could not implement the award, the respondent is justified in getting full wages from 21.6.1997 till reinstatement is effected….."

In the present case the Labour Court passed an award on 13.5.2003 and the same was published on 16.6.2003 and the same has become final. The petitioner management did not take any steps to implement the said award and after issuance of a legal notice, the award was implemented and first respondent was reinstated into service by order dated 15.7.2005 and contended that it is not liable to pay the wages for the delayed period since the first respondent has not approached the management immediately seeking implementation of the award. The facts of the

present case are similar to the case in **APSRTC Case** (cited supra) inasmuch as in the said case also the management took a stand that the workman never approached the corporation nor did he take any steps for execution of the award. Since, the facts in the present case are squarely covered by the judgment of the Apex Court in **APSRTC Case** (cited supra 2) the present writ petition is liable to be dismissed.

In the result, the writ petition is dismissed confirming the orders of the labour Court in M.P. No. 15 of 2005 dated 2.6.2005. No costs.

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N.V.RAMANA,J

DATE: 10.11.2006

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THE HON'BLE MR JUSTICE N.V. RAMANA

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